

AMENDED IN SENATE JUNE 6, 2012

AMENDED IN ASSEMBLY APRIL 23, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2167

Introduced by Assembly Member Hill

February 23, 2012

An act to ~~amend Sections 81434 and 81435~~ *add Article 2.5 (commencing with Section 81436) to Chapter 4 of Division 31* of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2167, as amended, Hill. Bay Area Water Supply and Conservation Agency: financial matters.

Under existing law, the City and County of San Francisco operates the Hetch Hetchy Project as a regional water delivery system, supplying water to persons and entities in San Francisco and the Counties of Alameda, San Mateo, and Santa Clara. Existing law, the Bay Area Water Supply and Conservation Agency Act, governs the formation and operation of the Bay Area Water Supply and Conservation Agency (BAWSCA) by 24 public entities that purchase water from San Francisco. The act authorizes the agency to borrow money, incur indebtedness, and issue notes and bonds, including revenue bonds, as specified. The act authorizes the agency to make proceeds of bonds authorized by the act available to other local public agencies on mutually satisfactory terms and conditions to assist in the construction, reconstruction, or improvement of works designed and intended in whole or in part to furnish water to the members of the agency, whether those works are

carried out jointly by the agency and other local public agencies, or solely by those other public agencies. The act further authorizes the agency to impose reasonable rates, fees, and charges on specified entities that are sufficient to generate revenue to pay the principal and interest on any bonds issued by the agency.

~~This bill would revise that provision relating to making bond proceeds available to other local public agencies to require that the bonds be for the purpose of assisting in the repayment of any existing capital assets, or in the construction, reconstruction, or improvement of works, if those assets were, or the works are, designed and intended in whole or in part to furnish water to the members of the agency, whether those assets were, or works are, carried out jointly by the agency and other local public agencies, or solely by those other public agencies. The bill, with regard to rates, fees, and charges, would authorize the agency to impose them as a surcharge collected by the City and County of San Francisco and transferred to the agency authorize the agency to prepay the unpaid principal balance relating to existing capital assets as of June 30, 2009, on behalf of BAWSCA members, as defined, as provided in a prescribed water supply agreement. This bill would authorize the agency to acquire from the City and County of San Francisco the right to receive all or a portion of the amounts payable by BAWSCA members under that water supply agreement and authorize the City and County of San Francisco to sell to the agency its right to receive these amounts. This bill would authorize the agency to request that the City and County of San Francisco continue to collect amounts in accordance with the water supply agreement and to transfer these amounts to the agency on a periodic basis. This bill would require the agency to use these amounts to pay debt service on prescribed bonds issued by the agency for specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds. This bill would also authorize the agency to impose rates, fees, and charges as prescribed to pay debt service or bonds issued for the specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds. This bill would also authorize the agency to impose rates, fees, and charges as prescribed to pay debt service or bonds issued for the specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds and would require that the City and County of San Francisco collect any of those rates, fees, and charges, as specified. This bill would also permit the agency to distribute~~

any of these amounts not needed for the purposes of those bonds to BAWSCA members, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 2.5 (commencing with Section 81436) is*
2 *added to Chapter 4 of Division 31 of the Water Code, to read:*

3
4 *Article 2.5. Additional Financing Authority*
5

6 81436. *For the purposes of this article, the following definitions*
7 *shall apply:*

8 (a) *“BAWSCA members” means Stanford University, the*
9 *California Water Service Company, and eligible public entities as*
10 *defined by Section 81305.*

11 (b) *“July 2009 Water Supply Agreement” means the water*
12 *supply agreement by and between the City and County of San*
13 *Francisco and the BAWSCA members, as amended or*
14 *supplemented.*

15 81436.5. *The agency may prepay all or a portion of any unpaid*
16 *principal balance relating to the existing capital assets as of June*
17 *30, 2009, on behalf of BAWSCA members, as provided in the July*
18 *2009 Water Supply Agreement.*

19 81437. (a) (1) *The agency may acquire from the City and*
20 *County of San Francisco the right to receive all or a portion of*
21 *the amounts payable to BAWSCA members under the July 2009*
22 *Water Supply Agreement.*

23 (2) *The City and County of San Francisco may sell to the agency*
24 *its right to receive amounts payable by BAWSCA members under*
25 *the July 2009 Water Supply Agreement.*

26 (b) (1) *If the agency acquires, and the City and County of San*
27 *Francisco sells, the right to receive amounts payable pursuant to*
28 *subdivision (a), if requested by the agency, the City and County*
29 *of San Francisco shall continue to collect amounts payable by*
30 *BAWSCA members under the July 2009 Water Supply Agreement*
31 *in accordance with the terms of that agreement and the City and*
32 *County of San Francisco shall transfer amounts so collected to*

1 *the agency on a monthly basis or on a periodic basis agreed to by*
2 *the agency and the City and County of San Francisco.*

3 *(2) The agency shall apply amounts received pursuant to this*
4 *subdivision to pay debt service on any bonds issued by the agency*
5 *for a use authorized by Section 81437.5 and to satisfy all other*
6 *obligations of the agency related to these bonds.*

7 *(3) The agency may distribute any amounts received pursuant*
8 *to this subdivision not needed for the purposes of this subdivision*
9 *to BAWSCA members. The agency may condition any distribution*
10 *pursuant to this paragraph upon BAWSCA members' agreement*
11 *to waive any right of prepayment respecting any amounts*
12 *purchased that the member may have under the July 2009 Water*
13 *Supply Agreement.*

14 *81437.5. In addition to the uses authorized in Section 81434,*
15 *the agency may use proceeds of bonds issued pursuant to this*
16 *division as follows:*

17 *(a) For the construction, reconstruction, or improvement of any*
18 *works carried out by the agency on behalf of a BAWSCA member.*

19 *(b) For the purpose of assisting in the repayment of any existing*
20 *capital assets, if those assets were designed and intended in whole*
21 *or in part to furnish water to BAWSCA members, whether those*
22 *assets were carried out jointly by the agency and other local public*
23 *agencies, or solely by those other public agencies.*

24 *(c) To make a prepayment, as described in Section 81436.5, or*
25 *an acquisition, as described in Section 81437.*

26 *(d) To pay the costs of issuance of the bonds and to fund reserve*
27 *funds securing the bonds.*

28 *81438. (a) In addition to the authority granted in Section*
29 *81435, the agency may do all of the following:*

30 *(1) Impose reasonable rates, fees, and charges on BAWSCA*
31 *members for any program or service provided or work performed*
32 *by the agency.*

33 *(2) Impose rates, fees, and charges on BAWSCA members and*
34 *any entity that subsequently serves a BAWSCA member's service*
35 *area in an amount as shall be necessary, together with other*
36 *available sources of funds, to pay debt service on any bonds issued*
37 *by the agency for a use authorized by Section 81437.5 and to satisfy*
38 *all other obligations of the agency related to these bonds,*
39 *including, but not limited to, funding and maintaining reserve*
40 *funds and complying with financial covenants.*

1 (3) *Distribute any amounts collected that are not needed for*
2 *the purposes of this article to BAWSCA members.*

3 (b) *The City and County of San Francisco shall collect any*
4 *rates, fees, and charges imposed by the agency pursuant to this*
5 *section as a surcharge under the July 2009 Water Supply*
6 *Agreement.*

7 ~~SECTION 1. Section 81434 of the Water Code is amended to~~
8 ~~read:~~

9 ~~81434. The agency may use proceeds of bonds authorized by~~
10 ~~this division for the construction, reconstruction, or improvement~~
11 ~~of any works carried out by the agency. The agency may also make~~
12 ~~proceeds of bonds authorized by this division available to other~~
13 ~~local public agencies on mutually satisfactory terms and conditions.~~
14 ~~The bonds shall be for the purpose of assisting in the repayment~~
15 ~~of any existing capital assets, or in the construction, reconstruction,~~
16 ~~or improvement of works, if those assets were, or the works are,~~
17 ~~designed and intended in whole or in part to furnish water to the~~
18 ~~members of the agency, whether those assets were, or works are,~~
19 ~~carried out jointly by the agency and other local public agencies,~~
20 ~~or solely by those other public agencies.~~

21 ~~SEC. 2. Section 81435 of the Water Code is amended to read:~~

22 ~~81435. The agency may impose reasonable rates, fees, and~~
23 ~~charges on Stanford University, the California Water Service~~
24 ~~Company, and the agency's member public entities for any program~~
25 ~~or service provided or work performed by the agency. The agency~~
26 ~~may also impose reasonable rates, fees, and charges on any other~~
27 ~~public or private entity that enters into a contract with the agency~~
28 ~~for use of any program or service provided or work performed by~~
29 ~~the agency. The agency may impose those rates, fees, and charges~~
30 ~~as a surcharge collected by the City and County of San Francisco~~
31 ~~and transferred to the agency. These rates, fees, and charges shall~~
32 ~~be at least sufficient to generate revenue to pay the principal and~~
33 ~~interest on any bonds issued by the agency in accordance with this~~
34 ~~division. The agency shall be solely responsible for servicing the~~
35 ~~debt on any bonds it issues and the State of California has no~~
36 ~~responsibility for those bonds.~~